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R E M A R K S

Reconsideration of the present application in view of the amendments and following remarks is respectfully requested. Claims 6, 12, and 18 have been amended. Eighteen claims are pending in the application: Claims 1 through 18.

Information Disclosure Statement

1. Attached herewith is an updated PTO/SB/08B for including a date of publication for the E-media reference. Additionally, a copy of the E-media reference has been included for the convenience of the Examiner. Additionally, the Examiner did not initial the reference entitled "All about DIVX, Where the Facts are Told and the Decision is Yours!" Applicants have also included a copy of this reference for the convenience of the Examiner. Applicants respectfully request consideration of the two references by the Examiner. No fees are believed currently due.

35 U.S.C. § 112

2. Claims 6, 12, 18 stand rejected under 35 U.S.C. 112 (second paragraph) as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner has rejected the claims for lacking antecedent basis for the term "the memory."

Applicants have amended claims 6, 12, and 18 to remove the reference to "the memory," thus Applicants respectfully

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assert the rejection is overcome and claims 6, 12, and 18 are in condition for allowance.

35 U.S.C. §103

3. Claims 1-18 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,161,132 (*Roberts et al.*).

Roberts et al. disclose in one embodiment a command plug-in which provides to a scripting language the ability to command the playing of a musical recording. (See *Roberts et al.*, Col. 4, lines 1-7). The command plug in provides the ability to get information regarding the capabilities of the CD-drive (See *Roberts et al.*, Col. 4, lines 7-16). Furthermore, as pointed out by the Examiner in the present office action, *Roberts et al.* teaches synchronizing CD's within a chat room setting, while utilizing a plug-in (See *Roberts et al.*, Col. 6, line 60 through Col. 8, line 2). The chat room of *Roberts et al.* functions as follows. First, when a user connects to a central web page, the user is prompted to insert a CD (See *Roberts et al.*, Col. 7, lines 14-16). A unique identifier of the CD is computed and communicated back to the server (See *Roberts et al.* Col 7, lines 17-19). The server then employs the unique identifier to determine whether it has a chat room focused on the CD (See *Roberts et al.* Col 7, lines 20-22). This step may be carried out by looking the unique identifier up in a database (See *Roberts et al.* Col 7, lines 22-23). The user is then directed to a chat room, or a chat room is created, for the particular CD inserted and the user becomes a client of the chat room (See *Roberts et al.*, Col. 7, lines 26-30). The chat room's name is set by the server to contain information about the track that is playing in

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the other client machines and the time at which the track started to play, as well as the volume at which the CD is playing. The chat client plug-in uses the information included in the chat room's name to synchronize with the other clients in the chat room such that all the clients are approximately hearing the same part of the CD at the same time (See *Roberts et al.*, Column 7, line 35-Column 8, line 2).

In contrast, Applicants claim "looking up a command associated with the identified type of playback device; and sending the command to the corresponding client apparatus for beginning the playback of the event simultaneously with the playback of the event on each of the remaining client apparatus." As described above, a unique identifier of the CD is computed and communicated back to the server (See *Roberts et al.* Col 7, lines 17-19). The server then employs the unique identifier to determine whether it has a chat room focused on the CD (See *Roberts et al.* Col 7, lines 20-22). This step may be carried out by looking the unique identifier up in a database (See *Roberts et al.* Col 7, lines 22-23). Thus, the system in *Roberts et al.* determines if a chat room exists based upon a CD identifier and does not look up "a command associated with the identified type of playback device" as claimed by Applicants.

Furthermore, as stated by the Examiner on page 4 of the office action, "Roberts does not specifically teach said synchronization of client devices based upon analyzing device type capabilities, as claimed." However, *Roberts et al.* does teach synchronization by use of a chat room's name, where the chat room name is related to a unique identifier of a CD. Therefore, *Roberts et al.* does not teach "sending the command to the corresponding client apparatus for beginning the playback of

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the event simultaneously with the playback of the event on each of the remaining client apparatus" wherein the command is associated with the identified type of playback device.

Furthermore, The Examiner asserts on Page 4 of the present office action that "it would have been obvious to one of ordinary skill in the art at the time of the invention to apply the plug-in analyzing CD capabilities and controls, to Robert's chat room embodiment, to provide the claimed equivalent of analyzing device type commands for chat room CD device synchronization, providing Roberts the benefit of synchronization of audio CD devices with a wide array of different characteristics (i.e., speed 1x, 2x, 4x, 8x, etc.).

First, MPEP Section 2143.03 states "To establish *prima facie* obviousness of a claimed invention, all the claimed limitations must be taught or suggested by the prior art." As described above, and stated by the Examiner in the office action, *Roberts et al.* does not teach all of the claimed limitations. Additionally, *Roberts et al.* does not suggest the change proposed by the Examiner as *Roberts et al.* does not suggest that different speeds of CD devices will need to be utilized or be beneficial for synchronization. If the Examiner has obtained this suggestion from another prior art reference, it is specifically requested the reference be provided to Applicants. Therefore, not all of the elements of Applicants claims are taught by *Roberts et al.* as required MPEP Section 2143.03 and the rejection is overcome.

Secondly, MPEP section 2143 states "there must be some suggestion or motivation, either in the reference themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference

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teachings." Examiner asserts that Roberts would benefit from the synchronization of audio CD devices with different speeds. Applicants again fail to find (and the Examiner does show) anywhere in *Roberts et al.* that would suggest this would be beneficial. The speed of the CD device would be irrelevant in "beginning the playback of the event simultaneously with the playback of the event on each of the remaining client apparatuses," as claimed by Applicants. In *Roberts et al.* the chat room name is set to include information about the track that is playing. The client will then begin playback of the CD at the track indicated in the chat room name. Regardless of the speed characteristics (i.e., 1x, 2x, 4x, 8x) of the CD, each CD will playback at the same speed. Different speed characteristics of a CD player refer to the recording speed of the CD player and not playback speed. Thus, there is not a suggestion within *Roberts et al.* to make the modification to *Roberts et al.* as proposed by the Examiner, as the speed of a CD player is irrelevant to beginning playback of CD's by using a chat room name to synchronize the playback on multiple client devices. Thus, there is no suggestion or motivation, either in the reference themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference as required by MPEP section 2143 and the rejection is overcome.

Thus, for the reasons stated herein, the Examiner has failed to make out a *prima facie* case of obviousness as required by MPEP Section 2143, as *Roberts et al.* does not teach or suggest all of the claim limitations of Applicants' independent claims 1, 7 and 13 and *Roberts et al.* does not provide any motivation to modify the reference as suggested by the Examiner. Thus, Applicants respectfully assert independent claims 1, 7 and 13 are

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in condition for allowance. Furthermore, claims 2-6, 8-12 and 14-18 are in condition for allowance at least because of their dependency upon allowable independent claims.

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C O N C L U S I O N

In view of the above, Applicants submit that the pending claims are in condition for allowance, and prompt and favorable action is earnestly solicited. Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain any outstanding issues that require adverse action, it is respectfully requested that the Examiner telephone Thomas F. Lebens at (805) 781-2865 so that such issues may be resolved as expeditiously as possible.

Respectfully submitted,



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Attachments:

- 1) Copy of PTO/SB/08B form
- 2) Two (2) References